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February 13, 2008

Chairman Ross Johnson
Commissioners Hodson, Huguenin, Leidigh and Remy
Fair Political Practices Commission
428 J Street
Sacramento, CA 95814

Via Facsimile

Re: Item #15 on Feb. 14, 2008 Agenda:
Reporting an Expenditure for a Gift, a Meal, or Out-of-State Travel

Dear Chairman Johnson & Commissioners:

We support as a great improvement the Commission's proposed regulation to strengthen disclosure rules so the public can determine whether candidate-controlled campaign funds are being spent in accordance with the law. However, we do not believe the proposal goes far enough to ensure that uncooperative candidates do not skirt the law.

We urge you to amend your proposal as follows:

- ⇒ Indicate in 18421.7 that "briefly describe" requires a specific explanation of the political, legislative or government purpose of the activity, and cannot be interpreted as a license to use vague or generic phrases;
- ⇒ Include reporting of travel itineraries and participant names;
- ⇒ Add new codes for "meal", "gift", and "golf" and require explanation of the ambiguous "office expense" code on Form 460;
- ⇒ Consider setting guidelines for the appropriate use of campaign funds for in-state travel.

These amendments are important to ensure full disclosure of the political, legislative or governmental purpose of expenditures.

The San Francisco Chronicle reported on Monday that lawmakers spent almost \$700,000 of campaign money on travel, gifts and dining between 2005 and mid-2006. Every

lawmaker quoted by the Chronicle said that he had followed the Commission's regulations. Nevertheless, their disclosures were unsatisfyingly vague, and most refused to provide any additional detail. This is a clear indication that most politicians are unwilling to provide more information than they must. As proposed, your regulation would allow candidates to mask the purpose of many expenditures.

One of the most startling revelations in the Chronicle account is the amount of campaign money that California politicians spent golfing. Nearly \$164,000 was spent "on greens fees and other expenses at golf courses in California, Nevada and Hawaii."

The golf expenditures provide a good example of why the proposed regulations require some amendment.

- Given the amount of campaign-funded golfing, the Commission should create a "golf" expenditure category and require that all golfing expenses include an explanation of the political, legislative or governmental purpose of the round on the links.
- The large amounts candidates spent on golf and similar items within the state that have no obvious political, legislative or governmental purpose make it clear that the misuse of campaign funds can occur just as easily within California as without. The exemption of in-state travel from new disclosures would allow a candidate to remain silent on many questionable expenditures. Perversely, it could actually encourage less disclosure if lawmakers attempt to obscure their out-of-state travel by paying all expenses within California, to a travel agency for example.
- Under your proposal, if a member spends campaign funds golfing in Hawaii he would be required to provide a description of the political, legislative or governmental purpose of the travel, and report a number of details about the trip. However, we are concerned that the required description has been narrowed from "facts sufficient to demonstrate" the purpose of an expenditure to "briefly describe" the purpose of the expenditure. We understand that you do not want candidates to feel they have to submit legal treatises on each expenditure with their campaign statements. At the same time, candidates should not consider a two-word explanation sufficient to explain why, for example, a ten-day, \$10,000 trip to Hawaii on contributors' dime is justified. If the candidate were to name the expenditure a "policy conference" would the description be accepted? What about "meetings with health care experts"? Neither provides enough information to determine if a ten-day vacation which clearly benefits the candidate personally is "directly related" to a political, legislative or governmental purpose.
- Itineraries and participant lists must also be disclosed. It would be difficult to argue that a foreign jaunt is justified if it includes just one hour-long meeting a day. Similarly, if a lawmaker is at a health policy conference with only representatives of the pharmaceutical industry, the public may question whether the public's interest is being served by the lawmaker's presence. None of this information can be determined by either the public or the Commission if itineraries and participant lists are not also disclosed.

- The regulation as written does not specifically add disclosure categories for gifts or meals to campaign forms. It is apparent that many expenditures that get reported as meetings, travel or fundraising, such as those at golf courses, casinos and wineries, often also include meals or gifts. An uncooperative candidate could use this loophole to buy services at golf courses or other venues, report them as travel, fundraising or meeting expenses, and never disclose the additional information required for gifts or meals that the regulation requires.

As we wrote in December, we believe that campaign funds should be limited to political uses, and that foreign relations and travel on the people's business are correctly paid for by the state. Campaign committees are meant to help politicians get elected, not sustain an extravagant lifestyle once they are in office. The distinction would eliminate an avenue of undue influence for campaign contributors who can currently claim credit for sending candidates around the world, in addition to getting them elected. However, until such change is effected in statute, the disclosure within the Commission's power to demand can be a strong deterrent to abuse.

Thank you for considering our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'Carmen Balber', with a long horizontal flourish extending to the right.

Carmen Balber

cc: Brian G. Lau, Commission Counsel
Scott Hallabrin, General Counsel